Reserved

COURT NO.3

Civil Contempt Petition No.49 of 2002

Shauqat & others ...Petitioner

Vs.

Chandra Shekhar Bhatt and another ....Contemners.

....

Hon'ble Irshad Hussain, J:

This contempt petition has been filed by the contempt-petitioners seeking direction from this Court to punish the contemners for violating and disobeying the order dated 07.08.2001 passed by the Court in writ petition no.2437 (M/S) of 2001, Asgar Vs. Deputy Director of Consolidation & others.

Heard Sri Mahavir S. Tyagi, learned counsel for the contempt-petitioners, Sri K.S.Verma, learned counsel for contemner no.2 and the learned Standing Counsel appearing on behalf of the contemner no.1.

Learned counsel for the contempt-petitioners drew attention to the order dated 07.08.2001 passed by the Court in the writ petition whereby the operation of the orders impugned dated 17.03.2001 and 21.04.2001 passed by the respondent no. 1 (Deputy Director of Consolidation) was stayed till the next date of listing and submitted that in the garb of this order the contemner who had filed the said writ petition forcibly dispossessed the contempt-petitioners from their chacks and thereby committed contempt of the court. The contemner did not admit the allegation and contemner no.1 who is the Additional

Collector/Deputy Director Consolidation made categorical assertion in his affidavit dated 20.04.2002 that after the order passed by the court in the writ petition possession of the land had not been given to either of the party and that no contempt of the court has been committed. Contemner no.2 who had filed the writ petition had even urged in the affidavit dated 14.05.2002 that he was in possession over the land in question when the writ petition was filed and that the allegation of the dispossession of the contempt-petitioners is baseless and false.

On behalf of the contempt-petitioners reliance was placed on a report dated 10.12.2001 submitted by revenue inspector on the complaint dated 29.10.2001 made by the contempt petitioners before the Deputy Director Consolidation and wherein it has been mentioned that the contemner no.2 had taken possession of the three chacks without getting the land measured. The report itself is not conclusive that possession of part of the land of the chack of the contempt-petitioners was taken forcibly by the said party. Moreover, neither any date of taking of possession had been mentioned in the report nor its is evident that the spot inspection was made in the presence of the parties to the case. The report being exparte no notice of the same can be taken when the contemner no.1, the authority himself dispute the allegation made by the contempt-petitioners about taking of possession of the land by the contemner no.2. Considering this there is no positive evidence to support the allegation of the contempt-petitioners and it has to be held that the contempt of the court has not been committed by the contemners and the contempt petition being devoid of merit is liable to dismissed.

Contempt petition is dismissed. Notices are discharged.

(Irshad Hussain, J.)

06.05.2003./B.